

III. REMARKS

Claims 1-42 are pending in the present application. Claims 1-21 were originally filed in the present application. Claims 5, 7, 14-19 and 21 were amended and claims 22-29 were added by Amendment A. Claims 11, 13 and 29 were amended and claims 30-42 were added by Amendment B. By the present Amendment, Applicant has amended claims 5, 11, 13, 14, 17, and 29, and has cancelled claims 1-4, 6-10 and 12 without prejudice or disclaimer. Based on the amendments and remarks set forth herein, Applicant respectfully requests reconsideration and allowance of claims 5, 11, and 13-42.

Allowable Subject Matter

The Office Action indicates that claims 4, 5, 11 and 13-42 would be allowable if rewritten to overcome the 35 U.S.C. §112 rejection and to include all of the limitations of the base claim and any intervening claims. During a telephone interview between Salvatore A. Sidoti and Examiner Pratt on August 28, 2003, Examiner Pratt advised Mr. Sidoti that only claims 5, 11 and 13-42 contained allowable subject matter, and that claim 4 did not contain allowable subject matter.

Claims 1-42 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. It is alleged that the use of the word "substantially" renders the claims indefinite. Applicant has deleted the phrase "substantially excludes" from claims 5, 11, 13, 14, 17 and 29 and has inserted the phrase "does not contain." The amendment to claims 5, 11, 13, 14, 17 and 29 has support in the specification at least at Page 3, lines 25-26 and Page 4, lines 6-9. Claims 5, 11, 13, 14, 17 and 29 were already presented in independent form. Applicant respectfully submits that claims 5, 11 and 13-42 are now in condition for allowance.

For the record, Applicant attempted to amend claims 1, 4, 5, 11, 13, 14, 17, and 29 to delete the word "substantially," by its Amendment filed on June 11, 2003. However, according to the Advisory Action dated June 25, 2003, Applicant's proposed amendment was not entered by the Office. The Advisory Action indicates that the amendment was not

entered, because it allegedly did not have support in the specification. However, the support for the proposed amendment can be found in the specification at Page 3, lines 25-26 and Page 4, lines 6-9. By the present Amendment, pursuant to the above-referenced telephone interview between Salvatore A. Sidoti and Examiner Pratt on August 28, 2003, Applicant has resubmitted a modified version of its amendments to claims 5, 11, 13, 14, 17, and 29.

Applicant respectfully submits that the scope of claims 5, 11, 13, 14, 17 and 29 is not altered by the present amendment, as the liquefied, soluble acidity-reducing formulation may include trace amounts or impurity-level amounts of acidulent, which does not appreciably alter the pH of the formulation. Applicant respectfully submits that the rejection is now moot and should be withdrawn.

Claims 1-4, 6-10 and 12 have been cancelled without prejudice or disclaimer and subject to Applicant's right to file the same in one or more continuing applications. These claims have been cancelled in the spirit of compact prosecution and without acquiescing to any of the pending rejections against the claims.

Claim Fees

Applicant has previously paid for a total of forty-two (42) claims, including nine (9) independent claims. Claims 1-4, 6-10 and 12 have been cancelled, leaving a total of thirty-two (32) claims. The thirty-two (32) remaining claims include seven (7) independent claims (5, 11, 13, 14, 17, 20, and 29). A Patent Application Fee Determination Record is submitted herewith. Applicant submits that no additional claim fee is due with the filing of this paper. If, however, the Office determines that an additional claim fee is due, the Director and/or Commissioner for Patents are hereby authorized to charge any required fee to Deposit Account No. 18-0987. A duplicate copy of this page is attached.

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Petition for Extension of Time and Fee

This supplemental response is accompanied by a Petition for a Three (3) Month Extension of Time under 37 C.F.R. §1.136(a). The Director and/or Commissioner for Patents are hereby authorized to charge the Petition fee required under 37 C.F.R. §1.17(a)(3) to Deposit Account No. 18-0987. A duplicate copy of this page is attached.

In view of the amendments and remarks contained above, Applicant respectfully requests withdrawal of the 35 U.S.C. §112 rejections. Applicant also respectfully requests the issuance of a Formal Notice of Allowance directed to claims 5, 11 and 13-42.

Should the Examiner have any questions, Applicant's undersigned attorney would welcome a telephone call.

Respectfully submitted,



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9-4-2003
Date

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